



The parties shall submit a joint letter with a proposed motion to dismiss briefing schedule by **November 1, 2021**.

Defendants' motion to dismiss is denied without prejudice to renewal because Plaintiffs have amended their complaint. So Ordered.

October 27, 2021

The Clerk of Court is respectfully directed to close the motion at Dkt. No. 46.

Via ECF

Hon. Lorna G. Schofield
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Dated: October 29, 2021

New York, New York

A handwritten signature in black ink, appearing to read "Lorna G. Schofield".

LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

Re: *Volino, et. al. v. Progressive Casualty Ins. Co., et al.*, No. 1:21-cv-06243-LGS

Dear Judge Schofield:

Pursuant to the Court's scheduling order directing that additional parties and amended pleadings be filed without leave of Court by today's date, Plaintiffs will shortly file a Second Amended Class Action Complaint. This amended pleading does not substantively alter the Plaintiffs' claims against Defendants and is not made in response to arguments Defendants raised in their Motion to Dismiss Plaintiffs' First Amended Complaint. Instead, the purpose of this amendment is to join additional plaintiffs and join Progressive Specialty Insurance Company based on its relationship with one of the newly joined plaintiffs. Another of the newly joined plaintiffs, Mr. Kevin Lukasik, was the plaintiff in a later-filed action in the Northern District of New York challenging Progressive Casualty's application of Projected Sold Adjustments. *Lukasik v. Progressive Cas. Ins. Co.*, Case No. 1:21-cv-850-GLS-ML (N.D.N.Y.). At the time of loss, Mr. Lukasik was party to an insurance contract with Progressive Casualty, even under the construction advanced in Defendants' motion. He joins this lawsuit to further the interests of judicial efficiency and consistency of rulings.

Plaintiffs' counsel have discussed this amendment with Defendants' counsel and are working together to propose an efficient briefing schedule that takes into account that Defendants' arguments in support of their Motion to Dismiss Plaintiffs' First Amended Complaint will largely remain the same.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Hank Bates".

Hank Bates

cc: All Counsel of Record via ECF